

HOUSE BILL 1188

By Hill M

AN ACT to amend Tennessee Code Annotated, Title 3;
Title 4; Title 40; Title 41 and Title 71, relative to
legislative oversight committees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 3, is amended by adding the following language as a new chapter:

3-15-101.

(a) In order to improve and promote accessible and affordable health care for all Tennesseans, to create a better environment for management and to ensure the successful implementation of TennCare, there is hereby created the select oversight committee on TennCare, hereinafter referred to in this part as "the committee."

(b) The committee shall be composed of fourteen (14) members, with seven (7) members to be appointed by the speaker of the senate and seven (7) members to be appointed by the speaker of the house of representatives.

3-15-102.

(a) The committee shall elect from its membership a chair, a vice chair, and any other officers it considers necessary.

(b) The committee may also:

(1) Create subcommittees related to its purposes;

(2) Create an advisory panel composed of representatives including, but not limited to, businesses, insurance companies, hospitals, physicians, and consumers;

(3) Request that standing committees of the general assembly, the fiscal review committee, or other agencies study certain aspects of the TennCare program and report to the committee;

(4) Conduct hearings;

(5) Employ staff, subject to the availability of funds;

(6) Enter into contracts for technical or professional services, subject to the availability of funds. The speaker of the senate and the speaker of the house of representatives shall jointly determine the qualifications and task or job descriptions of any consultant or other person contracted for services, and shall jointly select any consultant or other person on behalf of the committee; and

(7) Perform any other duties as are required.

3-15-103.

(a) The committee shall meet at least quarterly and at the call of the chair. The first meeting of the committee shall be convened by the speaker of the senate.

(b) Members of the committee are entitled to be reimbursed for their expenses in attending meetings of the committee or any subcommittees thereof at the same rates and in the same manner as when attending the general assembly.

3-15-104. The committee shall report on its activities to each member of the general assembly.

3-15-105.

(a) It is the intent of this part that plans be made carefully and be reviewed thoroughly to help ensure that the TennCare program will achieve its intended purpose, to help ensure that access and quality of health care are maintained for TennCare enrollees, and to help ensure that the general assembly and the public can have confidence that the state will deliver a TennCare program that is efficient and effective.

(b) The committee shall review proposed expenditures for TennCare and shall make its comments on proposed expenditures in a timely fashion according to this section.

(c) Any proposed expenditure of funds, including TennCare funds to managed care organizations (MCOs) or the distribution of supplemental pool funds to providers, any administrative or management changes requiring additional expenditures, and any proposed expenditure for expanding or otherwise changing the TennCare program shall be filed in writing by the commissioner of finance and administration with the committee and may be reviewed by the committee. The committee may comment to the commissioner of finance and administration on the proposed expenditures following a review; provided, that any comment must be made within thirty (30) days following the receipt of the proposal for the expenditures by the committee. If expenditures are made before the committee has made its comments, if any, or if expenditures are made, that are inconsistent with the comments of the committee, the commissioner of finance and administration shall submit, in writing, the reasons for making the expenditures to the committee and to the general assembly.

3-15-106. The committee shall receive information and assistance from the department of health, the department of mental health and substance abuse services, the department of intellectual and developmental disabilities, and other agencies of state government, as necessary.

3-15-107.

(a) For the purposes of this part, "managed care organization" and "MCO" mean any health maintenance organization, behavioral health organization, any entity regulated pursuant to title 56, chapter 32, and contractors of those entities.

(b) The committee shall regularly review the following programs, functions, and activities of the department of health and the TennCare program:

(1) Eligibility and enrollment standards, including determinations of how TennCare enrollees are assigned to MCOs, and other matters related to the eligibility and assignment of TennCare enrollees;

(2) Provision of services, facilities, or programs by TennCare providers, including TennCare's standard benefit package and other related matters;

(3) Education programs for TennCare enrollees, MCOs, and providers, including eligibility, access to TennCare providers and MCOs, benefit packages offered, deductibles and copayments required, and other related matters;

(4) Review and evaluation of the performance of TennCare MCOs, including their compliance with contracts entered into with the state, review of MCO contracts entered into with any TennCare provider, and other related matters;

(5) Compliance by the bureau of TennCare with provisions of the TennCare federal waiver, including the review of proposed amendments to the waiver for system changes, and evaluations or reports prepared for or by the federal government, and other related matters;

(6) Staffing within the bureau of TennCare, including recruitment, selection, training, compensation, discipline, and other related matters;

(7) Management, including planning, budgeting, information systems, organizational structure, rules, bureau of TennCare policies and procedures, and other related matters; and

(8) Any other matters deemed to be material by the committee.

3-15-108.

(a) When any bill is introduced in the general assembly that will impact or potentially impact any area within the scope of review of the committee, as set out in this part, the clerk shall notify the chair of the oversight committee of the bill and transmit a copy of the bill to the oversight committee at the same time the bill is referred to the appropriate standing committee. For purposes of participating in the discussions and comments of the oversight committee, the oversight committee chair shall notify the chair or the chair's designee of the standing committee of the date, time, and location where the oversight committee will meet to review legislation that has been assigned to the standing committee. The chair or the chair's designee shall serve as an ex officio member of the oversight committee when the oversight committee considers the legislation.

(b) In order to efficiently execute the duties set out in this part, the committee shall review all bills transmitted to it as provided in subsection (a), and may attach committee comments to the bill prior to its consideration by the appropriate standing committee. The sole purpose of review by the committee is to assist the standing committee in its consideration of TennCare-related legislation by providing appropriate background information on such legislation or information concerning the impact of the bill on the TennCare program. The committee shall make no recommendation concerning the passage of a bill it reviews, nor shall it have the authority to prevent the consideration of the bill by the standing committee to which it is referred. The committee's review of all bills transmitted to it pursuant to subsection (a) shall be completed and the notification required under subsection (c) returned to the chair of the appropriate standing committee no later than four (4) weeks after a bill reviewed pursuant to this section has first been introduced.

(c) Upon completion of the review process within the time limitation established under subsection (b), the chair of the oversight committee shall send written notification to the chair of the appropriate standing committee indicating that the review process has occurred and that the bill is ready for consideration by the standing committee. If the oversight committee has prepared committee comments on a bill, the comments shall be attached to the notification to the chair. If the committee has reviewed a bill and has no comments, the notification to the chair shall reflect that no comments were made on the bill. If a bill is referred to the committee for review but has not been reviewed within the time period prescribed in subsection (b), the chair shall notify the appropriate standing committee chair that the bill has not been reviewed but is ready for consideration by the standing committee.

(d) Before the bureau of TennCare may submit a request for an amendment to the waiver or a renewal of the waiver for the TennCare program to the United States department of health and human services, the bureau shall:

(1) Transmit the proposed amendment or renewal to the committee for comment at least thirty (30) days prior to submission of the waiver to the department of health and human services; and

(2) Notify each member of the general assembly of the proposed amendment or renewal by electronic mail or other type of electronic communication.

(e) No amendment or renewal request subject to the provisions of subsection (d) may be submitted or take effect unless the committee has been afforded the opportunity to comment on the proposed amendment or renewal request. The committee shall review any amendments or renewal requests in the same manner as proposed legislation, subject to the thirty-day period required by subsection (d).

3-15-109.

(a) The committee shall continue only until the operations of the department of health have improved substantially to the point that oversight is no longer necessary. It is the intent of the general assembly that such improvement be accomplished in a timely fashion.

(b) The committee created by this part shall terminate on June 30, 2020, unless continued for five (5) years by the general assembly.

3-15-110.

(a) The legislative oversight committee on TennCare shall conduct an independent study of the TennCare pharmacy program that includes, but is not limited to, the following questions:

(1) What is the monitoring process to ensure that pharmacy programs are carefully implemented and reimbursement arranged so that patient care is not disrupted;

(2) Is the physician's judgment adequately recognized in ensuring that patients receive medically necessary treatments;

(3) Should new drugs and biologics be available and reimbursable initially in order to ascertain their ability to have an impact on the integrated costs of TennCare services;

(4) Are adequate disclosure measures in place to ensure patients are informed about the scope of the pharmaceutical benefit and of any restrictions on that benefit;

(5) By what method should the scientific and clinical integrity of healthcare decisions affecting TennCare enrollees be ensured;

(6) Through what process should TennCare enrollees have the opportunity to voice grievances and have access to an established process for appealing denials of care; and

(7) What safeguards are in place to ensure the preservation of a competitive marketplace that will result in the continuation of critical medical research and development?

(b) The bureau of TennCare, the TennCare pharmacy board, and the department of finance and administration shall provide necessary assistance to the oversight committee on TennCare in conducting its study, and the oversight committee is authorized to request the participation of TennCare managed care organizations, TennCare providers, pharmacists, pharmaceutical manufacturers, and voluntary health associations.

(c) The oversight committee on TennCare shall report its findings and recommendations of the study no later than January 15, 2018, to the chair of the senate health and welfare committee and the chair of the health committee of the house of representatives.

(d)

(1) The bureau of TennCare shall file a report at least annually setting forth data and statistics relative to health care provided to women. The report shall include data regarding women's health and prenatal care as follows:

(A) Data provided to the health care financing administration;

(B) Data collected by the department of health regarding live births and deaths, sorted by MCO;

(C) Data provided by MCOs to the bureau of TennCare and the department of health; and

(D) External Quality Review Organization reports provided to the bureau of TennCare.

(2) The report shall also include the number of women who received health care through the TennCare program, the type of care delivered, including the incidence of each type of care, the number of visits made to physicians' offices as well as hospital admissions, evaluation of outcome data, and other information that would be useful to the general assembly in evaluating the manner in which health care is provided through the TennCare program to women.

(e) The bureau of TennCare and the department of finance and administration shall develop data measures to assess the effectiveness of presumptive eligibility, the distribution of providers for each MCO for TennCare enrollees within each grand division, and the incidences of early prenatal care for TennCare recipients. The MCOs shall report regularly to the TennCare bureau using the data measures developed pursuant to this section.

(f) The reports required by this section shall be provided to the TennCare oversight committee and the speakers of each house. The first annual report shall be due by December 1, 2018.

(g)

(1) The bureau of TennCare shall file a quarterly report for each of the first three (3) quarters of each year that must include updates on:

(A) The status of TennCare reforms and improvements, such as improving the technology and information system;

(B) The progress of annual re-verification of all TennCare recipients;

- (C) The status of filling top leadership positions in the bureau;
- (D) The number of recipients in the TennCare program and the costs to the state;
- (E) The viability of MCOs and providers in the TennCare program; and
- (F) The success of fraud detection and prevention.

(2) A final report shall be submitted during the fourth quarter of each year, which shall include information for the fourth quarter and a summary of information under subdivisions (g)(1)(A)-(F) for the entire year. A copy of the report for each quarter shall be transmitted to the TennCare oversight committee, the office of legislative budget analysis, and the fiscal review committee within fifteen (15) days of the end of each quarter.

SECTION 2. Tennessee Code Annotated, Title 3, Chapter 15, is amended by adding the following language as a new part:

3-15-201. There is created the select oversight committee on children's services, hereinafter referred to in this part as "the committee," to be composed of five (5) members of the senate health and welfare committee to be appointed by the speaker of the senate, and five (5) members of the house health committee to be appointed by the speaker of the house of representatives.

3-15-202. The committee shall meet monthly to monitor the effects of the consolidation of the department of children's services and the division of juvenile justice under title 37, chapter 5, part 1, with special emphasis on state employees who may have been transferred or otherwise affected by the consolidation of the various departments, board appointments, and whether the department is accurately and adequately accomplishing its goals in meeting the needs of the children and families in this state.

3-15-203. The committee may conduct public hearings and to invite state employees, professionals, and members of the general public to share information and experiences on the manner in which the implementation of title 37, chapter 5, part 1, has impacted the delivery of services to children and their families in this state.

3-15-204. The committee shall report its findings to the governor and general assembly annually, or more often if necessary.

3-15-205. The department of children's services, the department of finance and administration, and the fiscal review committee shall provide the committee with any financial information as it may require, in addition to providing the committee with other relevant information the committee may require.

3-15-206. The committee shall regularly perform legislative oversight of the department of children's services, until services for children and their families have improved to the extent that such oversight is no longer necessary, as determined by the committee.

SECTION 3. Tennessee Code Annotated, Section 4-3-1013(f), is amended by deleting the language "the health committee of the house of representatives, the health and welfare committee of the senate," and substituting instead the language "the select oversight committee on TennCare created by § 3-15-101".

SECTION 4. Tennessee Code Annotated, Section 71-5-107(f)(2)(H), is amended by inserting the language " the select oversight committee on TennCare created by § 3-15-101," between the language "the governor," and the language "the health and welfare".

SECTION 5. Tennessee Code Annotated, Section 71-5-188(a), is amended by inserting the language " the select oversight committee on TennCare created by § 3-15-101," between the language "the house of representatives," and the language "the office of legislative budget analysis".

SECTION 6. Tennessee Code Annotated, Section 71-5-190(a), is amended by deleting the last sentence and substituting instead the following:

The committee shall review such information and make recommendations to the select oversight committee on TennCare created by § 3-15-101 and the TennCare bureau concerning potential drug interactions, abuse of prescription drugs, or other appropriate matters.

SECTION 7. Tennessee Code Annotated, Section 71-5-2505(8), is amended by inserting the language " the select oversight committee on TennCare created by § 3-15-101," between the language "the TennCare advisory commission," and the language "and the commissioner."

SECTION 8. Tennessee Code Annotated, Title 3, Chapter 15, is amended by adding the following as a new part:

3-15-301.

(a) There is created the select oversight committee on correction, referred to in this part as "the committee," to:

- (1) Improve planning for facilities and programs;
- (2) Create a better working environment for correction management; and
- (3) Ensure implementation of proposed improvements in the correctional system.

(b)

(1) The committee shall be composed of seventeen (17) members, with three (3) members to be appointed by the governor, seven (7) members to be appointed by the speaker of the senate, and seven (7) members to be appointed by the speaker of the house of representatives. All committee members shall be members of the general assembly.

(2) The initial members' terms of office shall commence upon appointment. For purposes of calculating the initial terms of the members' offices, the initial appointments shall be deemed to be made on January 1, 2017. The initial members' terms shall be staggered as follows:

(A) The gubernatorial appointees shall serve initial terms of two (2) years;

(B) The senate appointees shall serve initial terms of three (3) years; and

(C) The house of representatives appointees shall serve initial terms of four (4) years.

(3) After the initial terms, members of the committee shall serve four-year terms and are eligible to serve two (2) four-year terms in succession; provided, however, that appointments and reappointments shall be consistent with terms of office for members of the senate and the house of representatives.

(4) The term of any member shall terminate at the time the member ceases to hold legislative office, and the member's successor shall be named pursuant to this subsection (b).

(5) Vacancies shall be filled in the same manner as the vacating member's office was originally filled.

3-15-302.

(a) The committee shall elect from its membership a chair, a vice chair, and other officers as it considers necessary.

(b) The committee may:

(1) Create subcommittees related to its duties;

(2) Request that standing committees of the general assembly, the fiscal review committee, or other agencies study certain aspects of the correctional system and report their findings to the committee;

(3) Conduct hearings;

(4) Enter into contracts for technical or professional services, subject to the availability of funds. The speaker of the senate and the speaker of the house of representatives shall jointly determine the qualifications and task or job descriptions of any consultant or other person contracted for such services, and shall jointly select the consultant or other person on behalf of the committee; and

(5) Perform other duties as are required in accordance with this chapter.

3-15-303.

(a) The committee shall meet at least quarterly and at the call of the chair. The first meeting of the committee shall be convened by the speaker of the senate.

(b) Members of the committee shall be reimbursed for their expenses for each day they attend meetings of the committee or any subcommittees in the same manner as they are paid for attending legislative meetings pursuant to § 3-1-106; provided, that no member shall receive additional legislative compensation when the general assembly is in session or if a member is being paid any other payments on the same dates for attendance on other state business.

3-15-304. The committee shall transmit a report of its activities to each member of the general assembly no later than January 15 of each year.

3-15-305.

(a) It is the intent of this chapter that plans be made carefully and viewed thoroughly to ensure that new programs achieve their intended purposes, that new facilities are needed and are designed properly, and that the general assembly and the

public can have confidence that the state will deliver a correctional system that is efficient and effective.

(b) The committee shall review proposed expenditures for correction and shall make its comments on proposed expenditures in a timely fashion according to the following:

(1) Any proposed expenditure of funds to implement new programs or expand existing programs, any administrative or management changes requiring additional expenditures, and any proposed expenditure for expanding or otherwise changing the operation of any correctional facility or for beginning the operation of a new facility shall be filed in writing by the commissioner of correction with the committee and may be reviewed by the committee. Upon the completion of the review, the committee may comment to the commissioner of finance and administration on the proposed expenditures; provided, that the comment shall be made within thirty (30) days after receipt by the committee of the proposal for expenditures. If expenditures are made before the committee has commented on the expenditures, if any, or if expenditures are made that are inconsistent with the comments of the committee, the commissioner of finance and administration shall explain in writing the reasons for making the expenditures to the committee and to each member of the general assembly; and

(2) Any proposed plans for capital expenditures for maintenance or renovations of existing correctional facilities, construction of new facilities, or the purchase of equipment to be used in facilities shall be filed in writing by the commissioner of correction with the committee at the same time it is filed with the state building commission. The committee has the authority to review the plans and, after its review, may comment to the state building commission on the

proposed capital expenditures. The state building commission is encouraged to consider the committee's comments, if any, in making its decisions.

3-15-306. The committee shall receive information and assistance from the department of correction, other agencies in the criminal justice system, and other agencies of state government, upon the committee's request.

3-15-307. The committee shall review regularly, or at least on an annual basis, the following programs, functions, and activities of the department of correction:

(1) Classification and reclassification, including determinations of how inmates are assigned to various security and custody levels; how inmates are assigned to various work, education, or training programs; how inmates are provided various treatment programs; how other programs are provided to inmates; and other matters related to the classification and assignment of inmates;

(2) Capacity of institutions and other programs, including planning to meet future correctional needs; consideration of alternative uses of existing facilities or programs; and other related matters;

(3) Industrial, agricultural, or other programs designed to provide activity for inmates, including conditions of eligibility; performance standards and incentive programs; planning of work programs, including estimating capital needs, demand for products, and services produced; determining where and how programs will be offered; and other related matters;

(4) Education and training programs for inmates, including eligibility; performance standards and incentive programs; planning of programs and estimating capital needs and inmate demand; and other related matters;

(5) Release programs, including eligibility conditions and effects; regular parole; early release programs such as "emergency release," "safety valve," release under contract sentencing, work release, clemency, and pardons; and other programs;

(6) Alternative sentencing programs, including community corrections; victim restitution programs; and other related programs;

(7) Local jails, including the determination of costs and the level of state payment for housing felons; state programs for funding renovation and construction; standards and monitoring compliance; long-term planning; and other related matters;

(8) The provision of services, facilities, and programs by private contractors;

(9) Staffing within the department of correction, including recruitment, selection, training, compensation, discipline, and other related matters;

(10) Management responsibilities, including planning, budgeting, information systems, organizational structure, and the development of rules and regulations, department policies and procedures, and other related matters; and

(11) Any other matter the committee deems relevant material.

3-15-308.

(a) When a bill is introduced in the general assembly that could or will impact an area within the scope of review of the committee, as set out in this part, the clerk shall, at the same time the bill is referred to the appropriate standing committee, notify the chair of the oversight committee of the bill and transmit a copy of the bill to the oversight committee. For purposes of participating in the discussions of the committee, the chair or the chair's designee of the appropriate standing committee shall be notified of the date, time, and location where the oversight committee will meet to review bills that have been assigned to the respective standing committee, and the chair or the chair's

designee shall serve as an ex officio member of the oversight committee when the bill is considered by the oversight committee.

(b) In order to efficiently execute the duties set out in this part, the committee shall review all bills transmitted to it as provided in subsection (a) and may attach committee comments to the bill prior to its consideration by the appropriate standing committee. The sole purpose of review by the committee is to assist the standing committee in its consideration of corrections-related bills by providing appropriate background information on the bill and information concerning the impact of the bill on the correctional system. The committee shall make no recommendation concerning the passage of a bill it reviews, nor shall it have the authority to prevent the consideration of the bill by the standing committee to which it is referred. The committee's review of all bills transmitted to it pursuant to subsection (a) shall be completed, and the notification required in subsection (c) returned to the chair of the appropriate standing committee, no later than two (2) weeks following receipt of the bill from the clerk.

(c) Upon completion of the review process within the time limit established in subsection (b), the chair of the committee shall send written notification to the chair of the appropriate standing committee indicating that the review process has been completed and the bill is ready for consideration by the standing committee. If the committee has prepared comments on a bill, the comments shall be attached to the notification to the chair of the standing committee. If the committee has reviewed a bill but has no comments, that shall be indicated in the notification to the chair. If a bill is referred to the committee for review but has not been reviewed within the time period set out in subsection (b), the chair shall notify the appropriate standing committee chair that the bill has not been reviewed but is ready for consideration by the standing committee.

3-15-309.

(a) The committee shall continue only until it determines that the operations of the department of correction have improved to the extent that oversight is no longer necessary. It is the intent of the general assembly that improvement of such operations be accomplished in a timely manner.

(b) The committee shall be subject to termination every four (4) years from June 30, 2018, unless the committee is continued by the general assembly.

(c) The respective speakers shall reappoint or appoint new members to the committee for each subsequent regular session of the general assembly for the duration of the committee.

(d) The office of the comptroller of the treasury shall conduct a performance evaluation of the committee prior to the committee's termination and shall report its findings to the general assembly.

SECTION 9. For the purpose of making appointments to the committees, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect July 1, 2017, the public welfare requiring it.